

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GREGORY A. THOMPSON,

Plaintff,

v.

Case No. 18-cv-2036-pp

MICHAEL D. FREDE, VENTURESPACE LLC,
VS CAPITOL DRIVE LLC, DANIEL J. MARKS,
ANDREA JOHNSON, ENOMPASS REALTY LLC,
KONIGIN DEVELOPMENTS LLC and
VENTURESPACE CONDOMINIUM ASSOCIATION-SUSSEX LLC,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION TO REMAND TO STATE
COURT (DKT. NO. 4), REMANDING CASE UNDER 28 U.S.C. §1447(C), AND
DENYING AS MOOT PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'
ANSWERS AND REQUEST FOR ENTRY OF DEFAULT (DKT. NO. 17)**

On December 28, 2018, defendants Michael D. Frede, VentureSpace, LLC and VS Capitol Drive, LLC filed a notice of removal in a case pending in Waukesha County Circuit Court. Dkt. No. 1. As the basis for removal, the defendants cited federal subject matter jurisdiction because the complaint contained allegations resembling copyright and trademark claims. Id. Five days later, the same defendants filed a motion to remand, having learned that the remaining defendants would not consent to removal. Dkt. No. 4.

For a party to remove a case from state to federal court under Title 28, section 1441(a) of the United States Code, all defendants who have been properly joined and served in the state-court case must join in or consent to

the removal of the case to federal court. 28 U.S.C. §1446(b)(2)(A). The plaintiff filed a motion in support of remanding this case back to Waukesha County Circuit Court, properly noting several other deficiencies with the notice of removal. Dkt. No. 7. The plaintiff, who is representing himself, acknowledges he has not incurred any attorney's fees. Id. The plaintiff asks the court to acknowledge that none of the other defendants had consented to the removal, and to take judicial notice of the defendants' errors and judgment. Id. The remaining defendants have filed their objections to removal. Dkt. Nos. 11, 16. No party has asked for an award of costs and actual expenses as permitted under 28 U.S.C. §1447(c).

The court will remand the case to state court, because all defendants did not consent to removal. The court notes that since the motion to remand was filed, defendants Encompass Realty, LLC, Andrea Johnson and Konigin Developments, LLC have filed an answer and disclosure statements, dkt. nos. 8-10, as have defendants Frede, VentureSpace, VS Capitol Drive and Frede Trust, dkt. nos. 12-13, and defendants Daniel Marks and VentureSpace Condominium Association-Sussex, LLC, dkt. no. 15. The plaintiff has asked the court to strike the answers as untimely and because they were not properly served, and has asked the court to enter default. Dkt. No. 17. Because the court is remanding the case to the state circuit court, it will deny as moot the plaintiff's motion to strike and for default.

The Clerk of Court will mail a certified copy of the order to the Waukesha County Circuit Court.

The court **GRANTS** defendant Michael D. Frede's motion to remand to state court. Dkt. No. 4.

The court **REMANDS** the case to Waukesha County Circuit Court.

The court **DENIES AS MOOT** the plaintiff's motion to strike defendants' answers and request for entry of default. Dkt. No. 17.

Dated in Milwaukee, Wisconsin this 23rd day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge